



WASHINGTON STATE LIQUOR CONTROL BOARD

Notice of Proposed Rule Making #04-21

As part of our ongoing regulatory improvement efforts, the Washington State Liquor Control Board is considering amending the attached rules regarding **requirements for non-retail licensees (such as breweries, wineries, and distributors)**.

Following this comment period the agency will publish proposed revised rule language and hold at least one public hearing.

This rule making is filed with the Office of the Code Reviser in Washington State Register number 04-19-153 (<http://slc.leg.wa.gov/wsr/register.htm>).

Public Comment

Please forward your comments to the Liquor Control Board by mail, e-mail, or fax by **October 15, 2004**.

By mail: Rules Coordinator
Liquor Control Board
PO Box 43080
Olympia WA 98504-3080

By e-mail: rules@liq.wa.gov

By fax: 360-704-4921

Questions?

If you have any questions, please contact Teresa Berntsen, Rules Coordinator, at 360-664-1648 or by e-mail at rules@liq.wa.gov

September 27, 2004

To request this notice in an alternative format or to request other accommodation to participate, please call 360-664-1600 or AT&T's TTY relay service at 1-800-855-2880.

Rules Under Review:

Beer

WAC 314-20-005 Application procedure--Beer distributor's or importer's license. Any person making application for a new beer distributor's or importer's license shall submit to the board, as a condition precedent to the board considering the application, such information as may be requested by the board and shall additionally submit a written commitment from a manufacturer or importer that the product the applicant proposes to distribute is available to him should a license be issued.

The decision as to whether a license will or will not be issued in a particular case is, pursuant to RCW 66.24.010, a matter of board discretion. The submission of the above information and written commitment shall not be construed as creating a vested right in the applicant to have a license issued.

WAC 314-20-015 Licensed brewers--Retail sales of beer on brewery premises--Beer served without charge on premises--Spirit, beer and wine restaurant operation. (1) A licensed brewer holding a proper retail license, pursuant to chapter 66.24 RCW, may sell beer of its own production at retail on the brewery premises[.]

(2) In selling beer at retail, as provided in subsection (1) of this regulation, a brewer shall conduct such operation in conformity with the statutes and regulations applicable to holders of such beer retailers' licenses. The brewer shall maintain records of such retail operation separate from other brewery records.

(3) Upon written authorization of the board, pursuant to RCW 66.04.011, beer of a licensed brewer's own production may be consumed in designated parks and picnic areas adjacent to and held by the same ownership as the licensed brewer.

(4) A licensed brewer or a lessee of a licensed brewer operating a spirit, beer and wine restaurant, licensed pursuant to RCW 66.28.010, shall conduct such operation in conformity with the statutes and regulations which apply to holders of such spirit, beer and wine restaurant licenses.

(5) A brewer may serve its own beer and beer not of its own production without charge on the brewery premises, as authorized by RCW 66.28.040.

(6) No retail license or fee is required for the holder of a brewer's license to serve beer without charge on the brewery premises as set forth in subsection (5) of this regulation. Before exercising this privilege, however, such brewer shall obtain approval of the proposed service area and facilities from the board. Such brewer shall maintain a separate record of all beer so served.

(7) A brewery is required to obtain the appropriate retail license to sell beer, wine, or spirits on

WAC 314-20-030 Packages--Classification. (1) No manufacturer, distributor or importer shall sell beer for use in the state of Washington in any packages or containers differing in sizes and case quantities from the manufacturer's original packages.

(2) Net contents--Packaged beer. Net contents shall be stated in a clearly legible manner on the label in fluid ounces or as follows:

- (a) If less than 1 pint, in fluid ounces, or fractions of a pint;
- (b) If 1 pint, 1 quart, or 1 gallon, the net contents shall be so stated;
- (c) If more than 1 pint, but less than 1 quart, the net contents shall be stated in fractions of a quart, or in pints and fluid ounces;
- (d) If more than 1 quart, but less than 1 gallon, the net contents shall be stated in fractions of a gallon, or in quarts, pints, and fluid ounces;
- (e) If more than 1 gallon, the net contents shall be stated in gallons and fractions thereof;
- (f) The net contents need not be stated on any label if the net contents are displayed by having the same blown, branded, or burned in the container in letters or figures in such manner as to be plainly legible under ordinary circumstances and such statement is not obscured in any manner in whole or in part.

(3) Container size limitations--Barrels. Whole barrels (31 gallons), 1/2 barrels (15.5 gallons), 1/4

barrels (7.75 gallons), 1/6 barrels (5.16 gallons). Packaged beer--Maximum capacity for individual containers, 170 fluid ounces: Provided, however, That the board may, in its discretion, authorize other container and/or barrel size packages which have been approved for marketing within the United States by the Bureau of Alcohol, Tobacco, and Firearms, United States Treasury Department: Provided further, That the board may, in its discretion, authorize a brewery with spirit, beer and wine restaurant privileges to dispense beer directly from conditioning tanks/vessels to the spirit, beer and wine restaurant area provided the taxes have been paid prior to dispensing.

(4) The net contents of individual containers shall be stated on the outside of any multicontainer package where the individual container label or bottle size is not visible to the consumer at the point of purchase.

(5) Gift packages. A beer importer or beer wholesaler may prepare and sell "gift packages" consisting of containers of beer differing in case quantities from the manufacturer's original case capacities provided the tax has been paid on the previously purchased beer in accordance with RCW 66.24.290 and provided written approval by the board has been obtained.

WAC 314-20-050 Beer distributors--Importers--Brewers--Records--Preservation. (1) Beer distributors must keep beer accounts separate and independent from other accounts and maintain proper records in a form approved by the board, showing all transactions in beer, and must in case of beer exported or beer sold, transferred or shipped to another distributor, preserve all bills of lading or other evidence of shipment for a period of two years after such exportation, and must in the case of sales to retailers preserve all sales slips and keep the same on file in the office of the wholesaler for at least two years after each sale.

(2) Each brewery, beer distributor, and beer importer may maintain microfilm records containing reproductions (including microfiche) of any record, document, or report if first approved by the board. Request for approval shall be directed to the financial division of the Washington state liquor control board and must include the following information:

- (a) Records proposed to be reproduced.
- (b) Reproduction process.
- (c) Manner of preserving the reproduction.
- (d) Facilities provided for examining or viewing such reproduction.

If the request is approved, the licensee shall provide for the examining, viewing, and reproduction of such records the same as if they were the original records.

(3) If the brewery, beer distributor, or beer importer keeps records within an automated data processing (ADP) system, the system must include a method for producing legible records that will provide the same information required of that type of record within this section. The ADP system is acceptable if it complies with the following guidelines:

- (a) Provides an audit trail so that details (invoices and vouchers) underlying the summary accounting data may be identified and made available upon request.
- (b) Provides the opportunity to trace any transaction back to the original source or forward to a final total. If printouts of transactions are not made when they are processed, the system must have the ability to reconstruct these transactions.
- (c) Has available a full description of the ADP portion of the accounting system. This should show the applications being performed, the procedures employed in each application, and the controls used to ensure accurate and reliable processing.

(4) The provisions contained in subsections (2) and (3) of this section do not eliminate the requirement to maintain source documents, but they do allow the source documents to be maintained in some other location.

WAC 314-20-070 Claims for defective keg beer--Replacement of overaged packaged beer--Procedures. (1) In the case of beer in barrels, beer which is not in salable condition due to defective beer or a defective container may be returned by the retailer to the beer distributor for a claim adjustment. The

brewer or supplier may make a credit adjustment to the distributor for such claim;

(2) No claim adjustment shall be accepted unless the same shall be made by the retailer within ten days after the defect in the beer or container has been discovered;

(3) All documentary evidence relating to the claim shall be preserved by the retailer, beer distributor, brewer, or beer importer for two years after the date of the claim;

(4) No brewer, beer distributor, or beer importer shall allow, or shall any retailer make claim for adjustment for defective keg beer unless the container or the beer is in fact defective;

(5) In the case of package beer, other than beer in barrels, beer which is not in a salable condition or overaged may be returned by a retail licensee to the beer distributor from whom the beer was purchased, provided it is immediately replaced by the beer distributor with an identical quantity, type and brand of beer: Provided further, That if the brand of beer is not presently in the beer distributor's stock and is not available to the distributor in the immediate future, a cash refund may be made to the retail licensee;

(6) Beer different from that ordered which has been delivered in error to a retail licensee may be returned to a beer distributor and either replaced with that beer which was ordered or a cash refund may be made: Provided, That the error in delivery shall be discovered and corrected within eight days of the date the delivery was made;

(7) Distributors who replace unsalable or overaged packaged beer as provided in subsection (5) of this section, shall maintain complete records of all such transactions, with such records to be readily available for inspection by authorized employees of the board;

(8) Salable or unsalable beer may be returned by a retail licensee or by a governmental agency who has seized the same to the beer distributor selling such beer in the event the retailer goes out of the business of selling beer at retail, and in such case a cash refund may be made upon return of the beer, provided that consent of the board is first had and obtained;

(9) Except as provided herein, no other adjustment, by way of cash refund or otherwise, shall be made by the beer distributor, brewer or beer importer.

WAC 314-20-080 Sales to vessels. (1) Tax paid beer may be sold direct by beer distributors to:

(a) Vessels engaged in foreign commerce and operating on regular schedules.

(b) Vessels engaged in interstate commerce and operating on regular schedules.

(c) Vessels commonly known as "tramps," engaged in interstate and/or foreign commerce but not operating on regular schedules and taking cargo when and where it offers and to any port.

(2) Beer may not be sold direct by beer distributors to any other class of boat or vessel unless the boat or vessel is in possession of a proper retail license.

WAC 314-20-090 Cash sales. No beer distributor nor brewer or beer importer holding a beer distributor's license shall sell or deliver beer to any retailer except for cash paid at the time of the delivery thereof: Provided, That cash may be paid prior to the delivery of beer sold to any retailer. Failure by licensees to keep accurate accounting records which result in the extension of credit, in violation of RCW 66.28.010 through the use of a prior cash deposit which is overextended may result in administrative action being taken against the liquor license.

WAC 314-20-100 Beer distributor price posting. (1) Every beer distributor shall file with the board at its office in Olympia a price posting showing the distributor prices at which any and all brands of beer sold by such beer distributor shall be sold to retailers within the state.

(2) All price postings must be received by the board not later than the tenth day of the month, and if approved will become effective on the first day of the calendar month following the date of such filing. An additional period, not to exceed five days will be allowed for revision of such posting to correct errors, omissions, or to meet competitive prices filed during the current posting period, but a revised posting must be on file at the board office by not later than the fifteenth day of the month in order to become

effective on the first day of the next calendar month: Provided, That the board may in individual cases, for good cause shown, extend the date on which the filings required by the rules are to be received by the board.

When any price posting to be filed with the board under the provisions of this rule has been deposited in the United States mail addressed to the board, it shall be deemed filed or received on the date shown by the post office cancellation mark on the envelope containing it or on the date it was mailed if proof satisfactory to the board establishes that the actual mailing occurred on an earlier date.

(3) Filing date exception--Whenever the tenth day of the month falls on Saturday, Sunday or a legal holiday, an original price posting may be filed not later than the close of business the next business day.

(4) In the event that a beer distributor determines to make no changes in any items or prices listed in the last filed and approved schedule, such prices listed in the schedule previously filed and in effect, shall remain in effect for each succeeding posting period until a revised or amended schedule is filed and approved, as provided herein.

Provision for filing of temporary price reductions--In the event a beer distributor elects to file postings listing selected items on which prices are temporarily reduced for one posting period only, such filing shall be made on special forms provided for such purpose and clearly reflect all items, the selling price thereof, and the posting period for which the price reductions will be in effect. At the expiration of the posting period during which such reductions were effective the special filing will become void and the last regularly filed and effective price schedule shall again become effective until subsequently amended pursuant to regular filing dates.

(5) Each price posting shall be made on a form prepared and furnished by the board or a reasonable facsimile thereof, and shall set forth:

(a) All brands, types, packages and containers of beer offered for sale by such beer distributor.

(b) The wholesale prices thereof to retail licensees, including allowances, if any, for returned empty containers.

(6) No beer distributor shall sell or offer to sell any package or container of beer to any retail licensee at a price differing from the price for such package or container as shown in the price posting filed by the beer distributor and then in effect.

(7) Quantity discounts are prohibited. No price shall be posted which is below acquisition cost plus ten percent of acquisition cost.

(8) Wholesale prices on a "close-out" item shall be accepted by the board if the item to be discontinued has been listed on the state market for a period of at least six months, and upon the further condition that the distributor who posts such a close-out price shall not restock the item for a period of one year following the first effective date of such close-out price.

(9) If an existing written contract or memorandum of oral agreement between a licensed brewer, certificate of approval holder, beer importer or beer distributor and a beer distributor, on file in accordance with WAC 314-20-105, is terminated by either party, and a new written contract or memorandum of oral agreement is made by such a supplier with another beer distributor in the affected trade area, the board, after receiving such new contract or memorandum of oral agreement and a corresponding wholesale price posting from the newly-designated beer distributor, may put such filings into effect immediately: Provided, That prices and other conditions of such filings which are in effect at the time of such termination shall not be changed until subsequent filings are submitted to the board and become effective under regulatory procedures set forth in other subsections of this regulation and WAC 314-20-105.

(10) The board may reject any price posting which it deems to be in violation of this or any other regulation or portion thereof which would tend to disrupt the orderly sale and distribution of beer. Whenever the board shall reject any posting the licensee submitting said posting may be heard by the board and shall have the burden of showing that said posting is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of beer. Thereupon if said posting is accepted it shall become effective at the time fixed by the board. If said posting is rejected, the last effective posting shall remain in effect until such time as an amended posting is filed and approved, in accordance with the provisions of this regulation.

(11) All price postings filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not within any sense be considered confidential.

(12) Any beer distributor or employee authorized by his distributor-employer may sell beer at the distributor's posted prices to any authorized retail licensee upon presentation to such distributor or employee at the time of purchase of a special permit issued by the board to such licensee.

(a) Every Class authorized retail licensee upon purchasing any beer from a distributor, shall immediately cause such beer to be delivered to his licensed premises, and he shall not thereafter permit such beer to be disposed of in any manner except as authorized by his license.

(b) Beer sold as provided herein shall be delivered by such distributor or his authorized employee either to such retailer's licensed premises or directly to such retailer at the distributor's licensed premises: Provided, however, That a distributor's prices to retail licensees shall be the same at both such places of delivery.

(13) When a new beer distributor's license is issued by the board, the holder thereof may file an initial price schedule and request that such posting be placed into effect immediately. The board may grant such approval, providing that such posting is in compliance with all other applicable regulatory requirements, and that contracts and memoranda are on file, in accordance with WAC 314-20-105.

WAC 314-20-105 Beer suppliers' price filings, contracts and memoranda. (1) Every licensed brewer shall file with the board at its office in Olympia a copy of every written contract and a memorandum of every oral agreement which such brewer may have with any beer distributor, which contracts or memoranda shall contain a schedule of prices charged to distributors for all items, all terms of sale, including all regular and special discounts; all advertising, sales and trade allowances and incentive programs; all commissions, bonuses or gifts and any and all other discounts or allowances. Whenever changed or modified such revised contracts or memoranda shall forthwith be filed with the board as provided in this regulation.

Each price schedule shall be made on a form prepared and furnished by the board, or a reasonable facsimile thereof, and shall set forth all brands, types, packages and containers of beer offered for sale by such licensed brewer; all additional information required may be filed as a supplement to said price schedule forms.

(2) Filing date--All written contracts and memoranda of oral agreements must be received by the board not later than the twenty-fifth day of the month, and if approved will become effective on the first day of the second calendar month following the date of such filing. An additional period will be allowed for revision of such filings to correct errors and omissions, or to meet competitive prices, filed during the current posting period, but a revised contract or memorandum of oral agreement must be on file with the board not later than the first day of the month in order to become effective on the first day of the following month: Provided, That the board may in individual cases, for good cause shown, extend the date on which the filings required by the rules are to be received by the board.

(a) When any price posting to be filed with the board under the provisions of this rule has been deposited in the United States mail addressed to the board, it shall be deemed filed or received on the date shown by the post office cancellation mark on the envelope containing it, or on the date it was mailed if proof satisfactory to the board establishes that the actual mailing occurred on an earlier date.

(b) Exceptions for changes in distributors and newly licensed distributors are set forth in WAC 314-20-100 (9) and (13).

(3) Filing date exception--Whenever the twenty-fifth day of the month falls on Saturday, Sunday, or a legal holiday, an original contract or memorandum of oral agreement may be filed not later than the close of business the next business day.

(4) In the event that a brewer determines to make no changes in any items or prices listed in the last filed and approved schedule, such prices listed in the schedule previously filed and in effect, shall remain in effect for each succeeding posting period until a revised or amended schedule is filed and approved, as provided herein.

Provision for filing of temporary price reductions--In the event a licensed brewer elects to file

postings listing selected items on which prices are temporarily reduced for a period of one posting period only, such filing shall be made on special forms provided for such purpose and clearly reflect all items, the selling price thereof, and the posting period for which the price reductions will be in effect. At the expiration of the posting period during which such reductions were effective the special filing will become void and the last regularly filed and effective price schedule shall again become effective until subsequently amended pursuant to regular filing dates.

(5) Prices filed by a licensed brewer shall be uniform prices to all distributors on a statewide basis less bona fide allowances for freight differentials. Quantity discounts are prohibited. No price shall be filed which is below acquisition cost plus ten percent of acquisition cost: Provided, That acquisition cost plus ten percent of acquisition cost shall not apply to sales of beer between a beer importer who sells beer to another beer importer or to a beer distributor, or to a beer distributor who sells beer to another beer distributor.

(6) No licensed brewer shall sell or offer to sell any beer to any persons whatsoever in this state until copies of such written contracts or memoranda of such oral agreements are on file with the board.

(7) No licensed brewer shall sell or offer to sell any package or container of beer to any distributor at a price differing from the price for such package or container as shown in the schedule of prices filed by the brewer and then in effect.

(8) The provisions set forth in the foregoing subsections of this regulation shall also apply to written contracts and memoranda of oral agreements which must be filed with the board by every certificate of approval holder who sells beer to a beer importer, every beer importer who sells beer to another beer importer or to a beer distributor, and every beer distributor who sells beer to another beer distributor: Provided, That the provisions of this subsection shall not apply, and filings will not be required in the instance of beer distributors making accommodation sales to other beer distributors when such sales are made at a selling price not to exceed the laid-in cost of the beer being sold. Accommodation sales may only be made when the distributor purchasing the beer is an authorized purchaser of the brand and product being sold, having been designated as an authorized purchaser by the manufacturer or importer of the product being sold, as demonstrated by an existing contract or memoranda on file and in effect under the provisions of this rule.

(9) Holders of certificates of approval may ship beer into this state when the beer has been sold and consigned to the holder of a beer importer's license at his licensed premises. The bill of lading covering such consignment shall not be changed or the beer diverted unless such diversion is to another beer importer, and the board so notified immediately.

(10) The board may reject any supplier's price filing, contract or memorandum of oral agreement or portion thereof which it deems to be in violation of this or any other regulation or which would tend to disrupt the orderly sale and distribution of beer. Whenever the board shall reject any such price filing, contract or memorandum the licensee submitting said price filing, contract or memorandum may be heard by the board and shall have the burden of showing that the said price filing, contract or memorandum is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of beer. Thereupon if said price filing, contract or memorandum is accepted it shall become effective at a time fixed by the board. If said price filing, contract or memorandum or portion thereof is rejected, the last effective price filing, contract or memorandum shall remain in effect until such time as an amended price filing, contract or memorandum is filed and approved, in accordance with the provisions of this regulation.

(11) All prices, contracts and memoranda filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not in any sense be considered confidential.

WAC 314-20-110 Beer importers--Principal office. Each beer importer shall keep the board informed at all times of the location of the principal office required by section 23-G, subdivision (2) of the Washington State Liquor Act (RCW 66.24.260) and shall, not less than two days prior thereto notify the board in writing or by telegraph of any change in the location of such office.

WAC 314-20-120 Beer importers--Warehouses. Beer importers maintaining warehouses at which beer imported by such importer is stored shall at all times keep the board advised of the location of such warehouse.

WAC 314-20-130 Imported beer--List filed--Labels. Each beer importer shall at all times keep on file with the board a list showing all beers which such importer intends to import, which list shall contain the trade name of the beer, the name of the brewer, and the location of the brewery at which such beer is manufactured. No beer shall be imported until duplicate copies of all beer labels intended to be used shall have been submitted to and approved by the board or its accredited representative.

WAC 314-20-140 Beer importers--Certain duties. No beer importer shall import or transport or cause to be transported into the state of Washington any brand of beer manufactured within the United States but outside the state of Washington, unless such importer shall have first filed with the board a notice of his intention so to do, and shall have ascertained from the board that the brewer manufacturing such beer has obtained from the Washington state liquor control board a certificate of approval as provided in section 23-F of the Washington State Liquor Act (RCW 66.24.270).

WAC 314-20-160 Importation of foreign beer--Reports--Payment of tax. Beer manufactured outside of the United States may be imported by a beer importer or distributor, but only under the following conditions:

(1) Such beer shall be imported and delivered directly to either the warehouse of the importer or distributor or to some other warehouse previously designated by the importer or distributor and approved by the board.

(2) All matters pertaining to the importation, transportation, storage, payment of taxes and keeping of records, and all other matters pertaining to the importation of beer manufactured outside the United States shall be subject at all times to such orders, rules and regulations as the board may from time to time prescribe, and the board reserves the right to make orders applicable to individual and particular cases in addition to general orders, rules and regulations applicable generally.

WAC 314-20-170 Holders of certificates of approval. Each brewer holding a certificate of approval may ship beer only to licensed beer importers or distributors. [.] As required by RCW 66.24.270 (sec. 23-F of the Washington State Liquor Act) and by the written agreement embodied in the application for certificate of approval[,] each brewer holding a certificate of approval shall file the report(s) required by WAC 314-19-015[:][.]

All reports shall be made upon forms prescribed[,] and furnished by the Washington state liquor control board.

Wine

WAC 314-24-003 Standards of identity for wine. (1) Application of standards. The standards of identity for the several classes and types of wine set forth herein shall be applicable to all wines produced, imported, bottled, offered for sale, or sold within this state for beverage use or any other purpose, except as hereinafter prescribed. The standards herein established are minimum standards for wines of the several classes and types defined.

(2) Standards of identity. The several classes and types of wine set forth herein shall be as follows:

(a) Wine (or grape wine). "Wine" is the product of the normal alcoholic fermentation of the juice of sound, ripe grapes (including pure condensed must), with or without added grape brandy or other spirits derived from grapes or grape products, and containing not to exceed 24 percent alcohol by volume, but without any other addition or abstraction whatsoever except such as may occur in normal cellar treatment: Provided, That the product may be ameliorated before, during or after fermentation by the use of pure dry sugar, a combination of water and pure dry sugar, liquid sugar, invert sugar syrup, grape juice or concentrated must, but only in accordance with federal regulations 27 CFR part 240, and the total solids of the wine shall in no case exceed 21 percent by weight. The maximum volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, shall not be, for red table wine, more than 0.14 gram, and for all other wine, more than 0.12 gram in both cases per 100 cubic centimeters (20 degrees C.). The maximum sulphur dioxide content of any wine shall not be greater than 350 parts per million of total sulphur dioxide or sulphites expressed as sulphur dioxide.

Pure condensed must. "Pure condensed must" means the dehydrated juice or must of sound, ripe grapes, or other fruit or agricultural products, concentrated to not more than 80° Brix, the composition thereof remaining unaltered except for removal of water; the term "restored pure condensed must" means pure condensed must to which has been added an amount of water not exceeding the amount removed in the dehydration process; and the term "sugar" means pure cane, beet, or dextrose sugar in dry form containing, respectively, not less than 95 percent of actual sugar calculated on a dry basis.

(b) Natural wine is the product of the juice of sound, ripe grapes, or the product of the juice of sound ripe fruit or berries other than grapes, produced in accordance with section 5381, I.R.C., and federal regulations 27 CFR part 240, as applicable.

(c) Red and white wine. Red wine is wine which contains the red coloring matter of the skins, juice, or pulp of grapes; pink, amber or rose wine is wine which contains partial red coloring of the skins, juice, or pulp of grapes; and white wine is wine which does not contain the red coloring matter of the skins, juice, or pulp of grapes.

(d) Table wine (including light wine, light grape wine, light red wine, light white wine, and natural wine) is wine containing not to exceed 14 percent alcohol by volume. The maximum Balling or Brix saccharometer test for any table wine shall not be more than 14 percent (at 20 degrees C. using a saccharometer calibrated at this temperature) when the test is made in the presence of the alcoholic content provided herein.

(e) Dessert wine (including appetizer wine) is wine containing more than 14 percent alcohol by volume, and not to exceed 24 percent alcohol by volume. Angelica, madeira, malaga, marsala, muscatel, port, white port, sherry, and tokay are types of dessert wine containing added grape brandy or other spirits derived from grapes or grape products, possessing the taste, aroma and other characteristics generally attributed to these products, and having an alcoholic content of not less than 17 percent by volume in the case of sherry, and not less than 18 percent in the case of all other types named in this paragraph.

(f) Aperitif wine is grape wine, containing added grape brandy or other spirits derived from grapes or grape products and having an alcoholic content of not less than 15 percent by volume flavored with herbs and other natural aromatic flavoring materials and possessing the taste, aroma and other characteristics generally attributed to wine of this class.

(g) Vermouth is a type of aperitif wine made from grape wine and possessing the taste, aroma and other characteristics generally attributed to vermouth.

(h) The term vintage wine means a wine produced wholly from (i) grapes gathered and (ii) the

juice therefrom fermented, in the same calendar year and in the same viticultural area (e.g., county, state, department, province, or equivalent geographic area, or subdivision thereof), as identified on the label of such wine.

(i) Sacramental wine. Wine used solely for sacramental purposes may possess such alcoholic content not exceeding 24 percent by volume as required by ecclesiastical codes.

(j) Sparkling grape wine (including sparkling wine, sparkling red wine, and sparkling white wine) is grape wine made effervescent with carbon dioxide resulting solely from the fermentation of the wine within a closed container, tank or bottle.

(k) Champagne is a type of sparkling light white wine which derives its effervescence solely from the secondary fermentation of the wine within glass containers of not greater than one gallon capacity, and which possesses the taste, aroma, and other characteristics attributed to champagne as made in the Champagne District of France.

(l) A sparkling light wine having the taste, aroma, and characteristics generally attributed to champagne but not otherwise conforming to the standard for champagne may, in addition to but not in lieu of the class designation sparkling wine, be further designated as champagne style, or champagne type or American (or New York state, California, etc.) champagne --bulk process; all the words in such further designation shall appear in lettering of substantially the same size and such lettering shall not be substantially larger than the words "sparkling wine."

(m) Pink (or rose) champagne is a type of sparkling pink wine otherwise conforming to the definition of champagne, and shall be labeled in the same manner as champagne except that the designation pink (or rose) champagne shall be used in lieu of the designation champagne.

(n) Sparkling burgundy and sparkling moselle are types of sparkling wine possessing the taste, aroma and characteristics attributed to these products.

(o) Carbonated wine (including carbonated grape wine, carbonated red wine, carbonated pink (or rose) wine and carbonated white wine) is wine made effervescent with carbon dioxide other than that resulting solely from the secondary fermentation of the wine within a closed container, tank, or bottle.

(p) Fruit wine is wine produced by the normal alcoholic fermentation of the juice of sound, ripe fruit (other than grape), including pure condensed fruit must, with or without added fruit brandy or fruit spirits distilled from the same type of fruit or fruit products as the wine to which such fruit brandy or fruit spirits is added, and containing not to exceed 24 percent of alcohol by volume but without any other addition or abstraction whatsoever except such as may occur in normal cellar treatment: Provided, That the product may be ameliorated before, during, or after fermentation by the addition of water, pure dry sugar, a combination of water and pure dry sugar, liquid sugar, invert sugar syrup and concentrated and unconcentrated juice of the same fruit, but, only in accordance with federal regulations and the total solids of the wine shall in no case exceed 21 percent by weight.

The maximum volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, shall not be for natural fruit wine, more than 0.14 gram, and for other fruit wine, more than 0.12 gram, per 100 cubic centimeters (20 degrees C.).

(q) Light fruit wine (including natural fruit wine) is fruit wine containing not to exceed 14 percent alcohol by volume.

(r) Fruit wine derived wholly (except for sugar, water, or added fruit brandy or fruit spirits) from one kind of fruit shall be designated by the word wine, qualified by the name of such fruit; e.g., peach wine, orange wine, blackberry wine, etc. Fruit wine not derived wholly from one kind of fruit shall be designated as fruit wine or berry wine, as the case may be, qualified by a truthful and adequate statement of composition appearing in direct conjunction therewith. Fruit wines derived wholly (except for sugar, water, or added fruit brandy or fruit spirits) from apples or pears may if desired be designated cider, and perry, respectively, and shall be so designated if lacking in vinous taste, aroma, and other characteristics. Fruit wine rendered effervescent by carbon dioxide resulting solely from the secondary fermentation of the wine within a closed container, tank, or bottle shall be further designated as sparkling, and fruit wine rendered effervescent by carbon dioxide otherwise derived shall be further designated as carbonated.

(s) Berry wine is fruit wine produced from berries.

(t) Citrus wine or citrus fruit wine is fruit wine produced from citrus.

(u) Wine from other agricultural products. Sake is wine produced from rice in accordance with

the commonly accepted method of producing such product.

(v) Other agricultural wines (such as honey wine), the production or sale of which is not prohibited by these regulations, shall be made in accordance with the commonly accepted standards of such product.

(w) Specialty wine is wine not otherwise herein defined, produced in accordance with commercial standards for such wines. Such wines may bear a fanciful proprietary designation and shall be labeled with a truthful and adequate statement of composition or with any commonly accepted trade designation indicative of such composition.

(x) Specially sweetened natural wine (a wine such as Kosher wine) is wine produced in accordance with federal regulation 27 CFR part 240.

(y) High fermentation wine is a grape or fruit wine made within the limitations of regulation (57)(2)(a) for grape wine, and regulation (57)(2)(p) for fruit wine, except that the alcohol content after complete fermentation or complete fermentation and sweetening is more than 14 percent and that wine spirits may not be added, produced in accordance with federal regulation 27 CFR part 240.

(z) Special natural wine is a flavored wine made on bonded wine cellar premises from a base of natural wine, in conformity with federal regulation 27 CFR part 240.

(3) Grape-type designations. A name indicative of variety of grape may be employed as the type designation of a wine if the wine derives its predominate taste, aroma, and other characteristics, and at least 51 percent of its volume, from that variety of grape.

(4) Appellations of origin. A wine shall be entitled to an appellation of origin if:

(a) At least 75 percent of its volume is derived from both fruit or other agricultural products grown in the place or region indicated by such appellation; and

(b) It conforms to the requirements of the laws and regulations of such place or region governing the composition, method of production and designation of wines for consumption within such place or region of origin.

(5) Conformance to state standards required. Wines of any defined class or type labeled or advertised under appellation of origin such as Spanish, New York, Ohio, Finger Lakes, California, etc., shall meet the requirements of standards herein prescribed applicable to such wines and shall, in addition, contain the minimum percentage of alcohol and conform as to composition in all other respects with all standards of identity, quality and purity applicable to wines of such classes or types marketed for consumption in the place or region of origin.

For example, all grape wines bearing labels showing California as the origin of such wine, shall be derived one hundred percent from grapes grown and wine from such grapes fermented within the state of California, shall contain no sugar or material containing sugar, other than pure condensed grape must; and any type of grape dessert wine (except sherry) shall contain not less than 18 percent of alcohol by volume; any type of sherry shall contain not less than 17 percent alcohol by volume; except as hereinbefore provided. Wines subjected to cellar treatment outside the place or region of origin, and blends of wine of the same origin, blended together outside the place or region of origin (if all the wines, in the blend have a common class, type, or other designation which is employed as the designation of the blend), shall be entitled to the same appellation of origin to which they would be entitled if such cellar treatment of blending took place within the place or region of origin.

(6) Grape-type designations, generic, semi-generic and nongeneric designations of geographic significance, are subject to the same requirements as set forth under Title 27, Code of Federal Regulations, Part 4.

WAC 314-24-006 Substandard wines prohibited. Application of this regulation. The production, importation or sale of, wine, which fails to conform to the standards prescribed in regulation (57) hereof, or of any wine fermented from raisins, dried fruits, or dried berries, or of any imitation or substandard wine as hereinafter defined, is hereby prohibited.

(1) Imitation wine shall include:

(a) Any wine containing synthetic materials;

(b) Any wine made from a mixture of water with residues remaining after thorough pressing of

grapes, fruit or other agricultural products;

(c) Any class or type of wine, the taste, aroma, color or other characteristics of which have been acquired in whole or in part by treatment with methods or materials of any kind, if the taste, aroma, color or other characteristics of normal wines of such class or type are acquired without such treatment; or

(d) Any wine made from "must" concentrated at any time to more than 80 degrees (balling).

(2) Substandard wine shall include:

(a) Any wine having a volatile acidity in excess of the maximum prescribed therefor in these regulations;

(b) Any wine for which no maximum volatile acidity is prescribed in these regulations having a volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, in excess of 0.14 gram per 100 cubic centimeters (20 degrees C.);

(c) Any wine for which a standard of identity is prescribed in these regulations which, through disease, decomposition, or otherwise, fails to have the composition, color, and clean vinous taste and aroma of normal wines conforming to such standard; or

(d) Wine of any class or type containing added water, or sugar and water solution, in excess of the quantities expressly authorized for standard wine made from the same kind or kinds of materials as prescribed in regulation (57).

(3) Coined names:

(a) The sale in this state of wines, identified on labels or in advertisements by a type of brand designation which implies mixtures of wines for which standards of identity are established in these regulations, or which identifying type or brand designation resembles an established wine type name such as Angelica, Madeira, Muscatel, Port, White Port, Sherry, Tokay, Sauterne, Claret, Burgundy, etc., is hereby prohibited.

(b) The sale in this state of wine or combinations of wine and other alcoholic beverages which contain on the label statements such as whiskey wine, rum and wine, gin and wine, beer and wine, etc., or simulations of such combinations, is hereby prohibited.

(4) Containers:

(a) The sale of wine in any container originally designed for a product other than wine or in any container the design or shape of which would tend to mislead the consumer as to the nature of the contents, is hereby prohibited.

(b) The sale of wine in containers which have blown, branded or burned therein the name or other distinguishing mark of any person engaged in business as a wine producer, importer, distributor, or bottler or any other person different from the person whose name is required to appear on the brand label, is hereby prohibited.

WAC 314-24-020 Sanitation. Domestic winery premises shall be constructed, kept and maintained in a clean and sanitary condition, and in accordance with such rules and regulations as shall be prescribed by the state department of agriculture through the dairy and food division, for the sanitation thereof and applicable to the sanitation of such winery premises.

WAC 314-24-050 Alcoholic content. No wine shall exceed twenty-four percent of alcohol by volume at 60 degrees Fahrenheit, calculated from the distillate.

Label tolerance:

(1) The alcoholic content of wines containing in excess of fourteen percent of alcohol by volume shall be within one percent plus or minus of the label claim, but not to exceed the prescribed 24% limitation. In the event a maximum range of two percent is stated on the label, the alcoholic content must be within the stated range.

(2) The alcoholic content of wines containing less than fourteen percent of alcohol by volume shall be within one and one-half percent plus or minus of the label claim. In the event a maximum range of three percent is stated on the label, the alcoholic content must be within the stated range.

WAC 314-24-060 Quality standards. All wines of the types and classes hereinafter set forth sold in the state of Washington shall meet the following requirements.

Acid content:

(1) Volatile acids:

- (a) Red table wines Not over 0.14%, exclusive of sulfur dioxide, calculated as acetic acid.
- (b) All other wines Not over 0.12%, exclusive of sulfur dioxide, calculated as acetic acid.
- (c) Exception A higher volatile acidity level is permitted of 0.15 grams per 100 milliliters for white wine and 0.17 grams per 100 milliliters for red wine produced from unameliorated juice having a minimum solids content of 28 degrees Brix.

(2) Fixed acids:

(a) Grape wine:

- (i) Table wine Not less than 0.4% calculated as tartaric acid.
- (ii) Dessert wine Not less than 0.25% calculated as tartaric acid.

(b) Apple wine Not less than 0.15% calculated as malic acid.

(c) Fruit wine Not less than 0.5% calculated as citric acid.

(d) Berry wine Not less than 0.5% calculated as citric acid.

(3) Brix (balling):

(a) Port wine Minimum of 5.5 Brix at 20 degrees centigrade.

(b) White port wine Minimum of 5.5 Brix at 20 degrees centigrade.

(c) Muscatel wine Minimum of 5.5 Brix at 20 degrees centigrade.

(d) Tokay wine Minimum of 3.5 Brix at 20 degrees centigrade.

(e) Dry sherry wine Under 0.5 Brix at 20 degrees centigrade.

(f) Sherry wine Under 3 Brix at 20 degrees centigrade.

(g) Creme or sweet sherry wine Above 3 Brix at 20 degrees centigrade.

(4) Sulfur dioxide: Maximum of 350 parts per million total.

(5) Preservatives: No wines shall contain preservatives such as benzoic acid, salicylic acid or monochloroacetic acid, or their derivatives except that wines classified as specialty wine in accordance with WAC 314-24-003 (2)(w) may use benzoic acid or its derivatives if such use has been approved by the United States Food and Drug Administration.

(6) Stability: All wines shall be free from precipitates, colloidal matter, metallic casse, haze due to yeast, bacteria, tartrates, or other causes as determined by usual stability tests: Provided, however, That sediment may be allowed at the discretion of the board when it occurs in accordance with commercial standards commonly accepted by trade designations as normal and indicative of the wine's composition.

WAC 314-24-070 Domestic wineries--Purchase and use of bulk wines, brandy or wine spirits--Import permit required--Records. (1) Domestic wineries may purchase and receive under federal bond from any holder of a domestic winery license, holder of the fruit and/or wine distillery license provided in section 23-D of the Washington State Liquor Act (RCW 66.24.140), or out-of-state holder of a federal winery or fruit distillery basic permit, bulk wine, brandy or bulk wine spirits manufactured or produced by such holder, and use the same in the manufacture or production of wines: Provided, That every domestic winery which imports wine, brandy or wine spirits manufactured outside the state of Washington for use as authorized in this section must first be in possession of a permit issued by the board, in accordance with RCW 66.20.010(5) of the Washington State Liquor Act. Applications

for such permits must be submitted to the board in writing. Such permits expire at the end of the board's fiscal year, and are subject to renewal at that time upon written request and remittance of said annual fee. Wine manufactured or produced from one kind of fruit or berry may not receive wine, brandy or wine spirits manufactured or produced from another kind of fruit or berry. Such brandy or wine spirits so purchased shall be used exclusively and only for the purpose of adding wine spirits to wines. In those cases where the holder of a domestic winery license shall also hold such fruit and/or wine distillery license, then, and in such cases, such domestic winery may use brandy or wine spirits manufactured or produced under such distillery license as a wine spirits addition in the manufacture or production of wine by such holder of the domestic winery license.

(2) Any domestic winery using wine, brandy or wine spirits as provided in subsection (1) of this section, shall make and file with the board, not later than the tenth day of each month upon forms prescribed and furnished by the board, a report showing all transactions of such domestic winery in the purchase and/or use of wine, brandy or wine spirits as provided in said subsection (1), and shall retain one copy of such report in its own files, and shall keep and preserve for a period of not less than two years any bills of lading or other documents supporting such report. One copy of the bill of lading covering such sale and shipment to a domestic winery is to be forwarded to the board by the shipping winery or fruit distillery, at the time of such shipment.

WAC 314-24-080 Containers--Sizes and types permitted. (1) All wine sold for consumption in the state shall be sold in packages or container sizes approved by the Bureau of Alcohol, Tobacco, and Firearms, U.S. Treasury Department for Marketing within the United States. A copy of the federal certificate of label approval must be submitted with each such request for authorization.

(2) No domestic winery or wine distributor, or wine importer shall adopt or use any packages for wine differing in sizes and case capacities from: Manufacturer's original full cases. The board may, in its discretion, authorize other container and/or keg size packages it deems appropriate.

(3) Wine referred to in subsections (1) and (2) of this regulation may also be packaged and sold in metric standards of fill and in case sizes as are established in 27 Code of Federal Regulations, to wit: 3 liters (101 fl. oz.) 4 bottles per case; 1.5 liters (50.7 fl. oz.) 6 bottles p/c; one liter (33.8 fl. oz.) 12 bottles p/c; 750 milliliters (25.4 fl. oz.) 12 bottles p/c; 375 milliliters (12.7 fl. oz.) 24 bottles p/c; 187 milliliters (6.3 fl. oz.) 48 bottles p/c; 100 milliliters (3.4 fl. oz.) 60 bottles p/c. Wine may be bottled or packed in containers of four liters or larger if the containers are filled and labeled in quantities of even liters.

(4) Wine imported from foreign countries may be packaged and container sizes approved by the Bureau of Alcohol, Tobacco, and Firearms, U.S. Treasury Department for marketing within the United States. A copy of the federal certificate of label approval must be submitted with each such request for authorization.

(5) For taxing purposes and in all reports to the board, the above enumerated designations of package sizes, and no others, shall be used.

WAC 314-24-100 Domestic wineries--Responsibility for fruits used--Records. Every domestic winery shall keep proper records as required by the Bureau of Alcohol, Tobacco and Firearms, United States Treasury Department, in a form approved by the board showing the place of origin and/or purchase of all fruits and fruit products used by such winery in the manufacture of wine, which records shall be kept at the office of such winery and available at all times for inspection by the board.

WAC 314-24-105 Application procedure--Wine distributor's or importer's license. Any person making application for a new wine distributor's or importer's license shall submit to the board, as a condition precedent to the board considering the application, such information as may be requested by the board and shall additionally submit a written commitment from a manufacturer or importer that the product the applicant proposes to distribute is available to him should a license be issued.

The decision as to whether a license will or will not be issued in a particular case is, pursuant to

RCW 66.24.010, a matter of board discretion. The submission of the above information and written commitment shall not be construed as creating a vested right in the applicant to have a license issued.

WAC 314-24-115 Wine importers--Requirements. (1) Principal office: Each wine importer shall keep the board informed at all times of the location of the principal office required by the Washington State Liquor Act and shall, not less than two days prior thereto notify the board in writing or by telegraph of any change in the location of such office.

(2) Warehouses: Wine importers maintaining warehouses at which wine imported by such importer is stored shall at all times keep the board advised of the location of such warehouses.

(3) Certain duties: No wine importer shall import or transport or cause to be transported into the state of Washington any brand of wine manufactured within the United States but outside the state of Washington, unless such importer shall have first filed with the board a notice of his intention so to do, and shall have ascertained from the board that the winery manufacturing such wine has obtained from the Washington state liquor control board a certificate of approval as provided in the Washington State Liquor Act (section 10, chapter 21, Laws of 1969 ex. sess.).

WAC 314-24-120 Importation of foreign wine--United States wineries--Monthly reports--Records. (1) Foreign wine. Wine manufactured outside of the United States may be imported by a wine importer or distributor under the following conditions:

(a) The wine importer or distributor importing such wine must obtain label approval in accordance with WAC 314-24-040. Such wine shall be imported and delivered directly to either the warehouse of the importer or distributor or to some other warehouse previously designated by the importer or distributor and approved by the board.

(b) All matters pertaining to the importation, transportation, storage, keeping of records, and all other matters pertaining to the importation of wine manufactured outside the United States shall be subject at all times to such orders, rules and regulations as the board may from time to time prescribe, and the board reserves the right to make orders applicable to individual and particular cases in addition to general orders, rules and regulations applicable generally.

(2) Holders of certificate of approval--United States wineries, located outside of Washington state. Each winery holding a certificate of approval may ship wine to licensed wine importers and/or distributors only. As required by section 10, chapter 21, Laws of 1969 ex. sess., and by the written agreement embodied in the application for certificate of approval, each winery holding a certificate of approval shall file the report(s) required by WAC 314-19-015.

WAC 314-24-130 Case lot sales. No domestic winery, wine distributor, wine importer, or certificate of approval holder shall sell or otherwise deliver wine to another domestic winery, wine distributor, and wine importer except in whole case lots, nor shall any such licensee receive from any other such licensee wine except in whole case lots.

WAC 314-24-140 Sales to vessels. Tax paid wine may be sold direct by wine distributors to:

- (1) Vessels engaged in foreign commerce and operating on regular schedules.
- (2) Vessels engaged in interstate commerce and operating on regular schedules.
- (3) Vessels commonly known as "tramps," engaged in interstate and/or foreign commerce but not operating on regular schedules and taking cargo when and where it offers and to any port.

Wine may not be sold direct by wine distributors to any other class of boat or vessel unless the boat or vessel is in possession of a proper retail license.

WAC 314-24-150 Wine records--Preservation. (1) Every domestic winery, wine distributor, and wine importer shall keep wine accounts separate from other accounts, and maintain proper records in a form approved by the board showing all transactions in wine.

(2) Every domestic winery, wine distributor, and wine importer, shall, in the case of sales of wine within the state, keep and preserve all invoices, bills of lading, sales slips, and other evidence of sale, in the office of the domestic winery, wine distributor or wine importer for at least two years after each sale.

(3) Every domestic winery, wine distributor, and wine importer, shall, in the case of wine exported from the state, keep and preserve all bills of lading and other evidence of shipment in the office of the domestic winery, wine distributor, or wine importer for at least two years after each shipment.

(4) In the case of sales, transfers or shipments of wine between a domestic winery and a wine distributor, or between two domestic wineries, or between two wine distributors, or between a wine importer and a wine distributor, both the shipping and receiving licensees, as the case may be, shall keep and preserve all invoices, bills of lading, sales slips, and other evidence of sale, transfer or shipment in their respective offices for at least two years after each sale, transfer or shipment.

(5) Each winery, wine distributor, and wine importer may maintain microfilm records containing reproductions (including microfiche) of any record, document, or report if first approved by the board. Request for approval shall be directed to the financial division of the Washington state liquor control board and must include the following information:

(a) Records proposed to be reproduced.

(b) Reproduction process.

(c) Manner of preserving the reproduction.

(d) Facilities provided for examining or viewing such reproduction.

If the request is approved, the licensee shall provide for the examining, viewing, and reproduction of such records the same as if they were the original records.

(6) If the winery, wine distributor, or wine importer keeps records within an automated data processing (ADP) system, the system must include a method for producing legible records that will provide the same information required of that type of record within this section. The ADP system is acceptable if it complies with the following guidelines:

(a) Provides an audit trail so that details (invoices and vouchers) underlying the summary accounting data may be identified and made available upon request.

(b) Provides the opportunity to trace any transaction back to the original source or forward to a final total. If printouts of transactions are not made when they are processed, the system must have the ability to reconstruct these transactions.

(c) Has available a full description of the ADP portion of the accounting system. This should show the applications being performed, the procedures employed in each application, and the controls used to ensure accurate and reliable processing.

(7) The provisions contained in subsections (5) and (6) of this section do not eliminate the requirement to maintain source documents, but they do allow the source documents to be maintained in some other location.

WAC 314-24-160 Domestic wineries--Retail sales of wine on winery premises--Wine served without charge on premises--Spirit, beer and wine restaurant operation. (1) A domestic winery holding a proper retail license, pursuant to chapter 66.24 RCW, may sell wine of its own production at retail on the winery premises.

(2) In selling wine of its own production at retail on its premises as provided in subsection (1) of this regulation, a domestic winery shall conduct such operation in conformity with the statutes and regulations which apply to holders of such wine retailers' licenses. The winery shall maintain records of its retail operation separate from other winery operation records.

(3) Upon written authorization of the board, pursuant to RCW 66.04.011, wine of a domestic winery's own production and/or liquor products other than wine of a licensee's own production may be consumed in designated parks and picnic areas adjacent to and held by the same ownership as the domestic winery.

(4) A domestic winery or a lessee of a licensed domestic winery operating a spirit, beer and wine restaurant, licensed pursuant to RCW 66.28.010, shall conduct such operation in conformity with the statutes and regulations which apply to holders of such spirit, beer and wine restaurant licenses.

(5) A domestic winery may serve its own wine and wine not of its own production without charge on the winery premises as authorized by RCW 66.28.040.

(6) No retail license or fee is required for the holder of a domestic winery license to serve wine without charge on the winery premises as set forth in subsection (5) of this regulation. Before exercising this privilege, however, such winery shall obtain approval of the proposed service area and facilities. Such winery shall maintain a separate record of all wine so served.

(7) A winery is required to obtain the appropriate retail license to sell beer, wine, or spirits on the winery premises that is not of its own production.

WAC 314-24-180 Wine distributors, wine importers--Certain rights granted. (1) Wine distributors may sell to the board, export wine from the state, and purchase wine from or sell wine to another wine distributor.

(2) Wine importers may sell to the board, export wine from the state, or sell to wine distributors, but may not sell to another wine importer.

WAC 314-24-190 Wine distributor price posting. (1) Every wine distributor shall file with the board at its office in Olympia a wine price posting, showing the wholesale prices at which any and all brands of wine offered for sale by such wine distributor shall be sold to retailers within the state.

(2) All price postings must be received by the board not later than the tenth day of the month, and if approved will become effective on the first day of the calendar month following the date of such filing. An additional period, not to exceed five days will be allowed for revision of such posting to correct errors, omissions, or to meet competitive prices filed during the current posting period, but a revised posting must be on file at the board office by not later than the fifteenth day of the month in order to become effective on the first day of the next calendar month: Provided, That the board may in individual cases, for good cause shown, extend the date on which the filings required by the rules are to be received by the board.

When any price posting to be filed with the board under the provisions of this rule has been deposited in the United States mail addressed to the board, it shall be deemed filed or received on the date shown by the post office cancellation mark on the envelope containing it or on the date it was mailed if proof satisfactory to the board establishes that the actual mailing occurred on an earlier date.

(3) Filing date exception--Whenever the tenth day of any month falls on Saturday, Sunday or a legal holiday, an original price posting may be filed not later than the close of business the next business day.

(4) In the event that a wine distributor determines to make no changes in any items or prices listed in the last filed and approved schedule, such prices listed in the schedule previously filed and in effect, shall remain in effect for each succeeding calendar month until a revised or amended schedule is filed and approved, as provided herein.

Provision for filing of temporary price reductions--In the event a wine distributor elects to file postings listing selected items on which prices are temporarily reduced for a period of one calendar month only such filing shall be made on special forms provided for such purpose and clearly reflect all items, the selling price thereof, and the month for which the price reductions will be in effect. At the expiration of the month during which such reductions were effective the special filing will become void and the last regularly filed and effective price schedule shall again become effective until subsequently amended pursuant to regular filing dates.

(5) Postings shall be submitted upon forms prescribed and furnished by the board, or a reasonable facsimile thereof, and shall set forth:

(a) All brands, types and sizes of packages or containers of wine offered for sale in this state by such wine distributor, which packages or containers shall be limited to the sizes permitted in WAC 314-

24-080.

(b) The wholesale prices thereof within the state, which prices shall include the state wine tax plus surcharge of \$0.2192 cents per liter imposed under RCW 66.24.210 and 82.02.030.

(6) No wine distributor shall sell or offer for sale any package or container of wine at a price differing from the price of such item as shown in the price posting then in effect.

(7) Quantity discounts are prohibited. No price shall be posted which is below acquisition cost plus ten percent of acquisition cost.

(8) Wholesale prices on a "close-out" item shall be accepted by the board when the item to be discontinued has been listed on the state market for a period of at least six months, and upon the further condition that the distributor who posts such a "close-out" price shall not restock the item for a period of one year following the first effective date of such "close-out" price.

(9) If an existing written contract or memorandum of oral agreement between a domestic winery, certificate of approval holder, wine importer, or wine distributor and a distributor, as filed in accordance with WAC 314-24-200, is terminated by either party, and a new written contract or memorandum of oral agreement is made by such a supplier with another wine distributor in the affected trade area, the board, after receiving such new written contract or memorandum of oral agreement, and a corresponding wholesale price posting from the newly designated wine distributor, may put such filings into effect immediately: Provided, That prices and other conditions of any such filings which are in effect at the time of such termination shall not be changed prior to the next applicable filing period.

(10) When a new wine distributor's license is issued for the first time by the board, the holder thereof may file an initial price schedule and request that such posting be placed into effect immediately. The board may grant such approval, providing that such posting is in compliance with all other applicable regulatory requirements, and that contracts and memoranda are on file, in accordance with WAC 314-24-200.

(11) The board may reject any price posting or portion thereof which it deems to be in violation of this or any other regulation or which would tend to disrupt the orderly sale and distribution of wine. Whenever the board shall reject any posting the licensee submitting said posting may be heard by the board and shall have the burden of showing that the posting is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of wine. Thereupon if said posting is accepted it shall become effective at a time fixed by the board. If said posting or portion thereof is rejected the last effective posting shall remain in effect until such time as an amended posting is filed and approved in accordance with the provisions of this regulation.

(12) Any wine distributor or employee authorized by his/her distributor-employer may sell wine at the distributor's posted prices to any authorized licensee upon presentation to such distributor or employee at the time of purchase of a special permit issued by the board to such licensee.

(a) Every authorized retail licensee, upon purchasing any wine from a distributor, shall immediately cause such wine to be delivered to his licensed premises, and he shall not thereafter permit such wine to be disposed of in any manner except as authorized by his license.

(b) Wine sold as provided herein shall be delivered by such distributor or his authorized employee either to such retailer's licensed premises or directly to such retailer at the distributor's licensed premises: Provided, however, That a distributor's prices to retail licensees shall be the same at both places of delivery.

(13) All price postings filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not in any sense be considered confidential.

WAC 314-24-200 Wine suppliers' price filings, contracts and memoranda. (1) Every domestic winery shall file with the board at its office in Olympia a copy of every written contract and a memorandum of every oral agreement which such winery may have with any wine distributor, which contracts or memoranda shall contain a schedule of the prices charged to distributors for all items. Requirements for including or omitting from such prices the wine tax plus surcharge of \$0.2192 cents per liter, imposed under RCW 66.24.210 and 82.02.030, are set forth in subsection (8) of this section. Contracts and memoranda required to be filed under this subsection must list all terms of sale, including

all regular and special discounts; all advertising, sales and trade allowances; and all commissions, bonuses or gifts and any and all other discounts or allowances. Whenever changed or modified such revised prices, contracts or memoranda shall be filed with the board, as provided in this regulation.

Each price schedule shall be made on a form prepared and furnished by the board, or a reasonable facsimile thereof, and shall set forth all brands, types, packages and containers of wine offered for sale by such licensed domestic winery; all additional information required may be filed as a supplement to said price schedule forms.

(2) Filing date--All written contracts and memoranda of oral agreements must be received by the board not later than the twenty-fifth day of the month, and if approved will become effective on the first day of the second calendar month following the date of such filing. An additional period will be allowed for revision of such filings to correct errors and omissions, or to meet competitive prices, filed during the current posting period, but a revised contract or memorandum of oral agreement must be on file with the board not later than the first day of the month in order to become effective on the first day of the next calendar month: Provided, That the board may in individual cases, for good cause shown, extend the date on which the filings required by the rules are to be received by the board.

When any price posting to be filed with the board under the provisions of this rule has been deposited in the United States mail addressed to the board, it shall be deemed filed or received on the date shown by the post office cancellation mark on the envelope containing it or on the date it was mailed if proof satisfactory to the board establishes that the actual mailing occurred on an earlier date.

(3) Filing date exception--Whenever the twenty-fifth day of any month falls on Saturday, Sunday, or a legal holiday, an original contract or memorandum of oral agreement may be filed not later than the close of business the next business day.

(4) Exceptions for changes in distributors and newly licensed distributors are set forth in WAC 314-24-190 (9) and (10).

(5) In the event that a domestic winery determines to make no changes in any contracts or memoranda last filed and then in effect, such contracts or memoranda shall remain in effect for each succeeding calendar month until revised or amended contracts or memoranda are filed and placed into effect as provided herein.

Provision for filing of temporary price reductions--In the event a licensed domestic winery elects to file postings listing selected items on which prices are temporarily reduced for a period of one calendar month only such filing shall be made on special forms provided for such purpose and clearly reflect all items, the selling price thereof, and the month for which the price reductions will be in effect. At the expiration of the month during which such reductions were effective the special filing will become void and the last regularly filed and effective price schedule shall again become effective until subsequently amended pursuant to regular filing dates.

(6) Prices filed by a domestic winery shall be uniform prices to all distributors on a state-wide basis less bona fide allowances for freight differentials. Quantity discounts are prohibited. No price shall be filed which is below acquisition cost plus ten percent of acquisition cost: Provided, That acquisition cost plus ten percent of acquisition cost shall not apply to sales of wine between a wine importer who sells wine to a wine distributor, or to a wine distributor who sells wine to another wine distributor.

(7) The provisions set forth in subsections (1), (2), (3), (4), (5) and (6) of this section shall also apply to written contracts and memoranda of oral agreements which must be filed with the board by certificate of approval holders who sell wine to wine importers; wine importers who sell to wine distributors; and wine distributors who sell to other wine distributors: Provided, That the provisions of this subsection shall not apply, and filing will not be required, in the instance of wine distributors making accommodation sales to other wine distributors when such sales are made at a selling price not to exceed the laid-in cost of the wine being sold. Accommodation sales may only be made when the distributor purchasing the wine is an authorized purchaser of the brand and product being sold, having been designated as an authorized purchaser by the manufacturer or importer of the product being sold, as demonstrated by an existing contract or memoranda on file and in effect under the provisions of this rule.

(8) The wine tax plus surcharge, imposed under RCW 66.24.210 and 82.02.030, is not to be included in the prices filed as required by subsection (1) of this section by (a) a domestic winery, nor (b) by a certificate of approval holder who is not licensed as a wine distributor, nor (c) a wine importer who

is not licensed as a wine distributor.

Every wine distributor who sells wine to another wine distributor shall include such tax in the prices posted on such required schedules.

(9) No domestic wineries, certificate of approval holders, wine importers, or wine distributors shall sell any wine to any persons whatsoever in this state until copies of such written contracts or memoranda of such oral agreements are on file with the board.

(10) Certificate of approval holders may ship wine into this state when the same has been sold and consigned to the holder of an importer's license at his licensed premises. The bill of lading covering such consignment shall not be changed or the wine diverted unless such diversion is to another importer, and the board so notified immediately.

(11) The board may reject any supplier's price filing, contract or memorandum of oral agreement or portion thereof which it deems to be in violation of this or any other regulation or which would tend to disrupt the orderly sale and distribution of wine. Whenever the board shall reject any such price filing, contract or memorandum of oral agreement the licensee submitting said price filing, contract or memorandum may be heard by the board and shall have the burden of showing that the said price filing, contract or memorandum is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of wine. Thereupon if said price filing, contract or memorandum is accepted it shall become effective at a time fixed by the board. If said price filing, contract or memorandum or portion thereof is rejected the last effective price filing, contract or memorandum shall remain in effect until such time as an amended price filing, contract or memorandum is filed and approved, in accordance with the provisions of this regulation.

(12) All prices, contracts and memoranda filed as required by this regulation shall at all times be open to inspection to all trade buyers within the state of Washington and shall not in any sense be considered confidential.

WAC 314-24-210 Return of wine by retailer--Replacement--Conditions. No wine shall be returned by any retail licensee to any wine distributor except as herein provided.

(1) Wine which is not in a salable condition may be returned by a retail licensee to the wine distributor from whom purchased, provided it is immediately replaced by the wine distributor with an identical quantity, type and brand of wine: Provided, That if the brand of wine is not presently in the wine distributor's stock and is not available to the distributor in the immediate future, a cash refund may be made to the retail licensee upon the approval of the board first being obtained.

(a) Every wine distributor shall maintain on the licensed premises for a period of two years complete records of all refunds and exchanges made under this section including an inventory of unsalable wine returned to such distributor by any retail licensee.

(b) Such unsalable wine which requires reconditioning or destruction shall be returned by the wine distributor to the domestic winery which manufactured or produced the same, or to the importer who imported such wine. When wine which has been returned to a domestic winery by any person for reconditioning or destruction has been assembled at the winery, a complete inventory in duplicate of unsalable wine shall be filed with the board by the winery with a request that inspection be made of the returned wine before the reconditioning process or destruction is started. When wine has been returned by the distributor to the importer who imported such wine, a complete inventory of said wine shall be filed in duplicate with the board by the importer with a request that inspection be made of the returned wine before the wine is destroyed or returned to the out-of-state manufacturer.

(c) Wine which is not in a salable condition and has been returned to a domestic winery or importer by a distributor may be replaced by the supplier with an identical quantity, type, and brand of wine: Provided, That if the brand of wine is not presently in the winery or importer's stock and is not available to the supplier in the immediate future, a cash refund or credit may be made to the distributor by the supplier. Credit extended for the return of product should be noted on a separate document from the original invoice. Except as provided herein, no other adjustment, by way of a cash refund or otherwise, shall be made by the winery or wine distributor.

(2) Wine may be returned by a retail licensee or by a governmental agency who has seized the

same to the wine distributor selling such wine in the event the retailer goes out of the business of selling wine at retail or has their license changed to a wine restricted license, and in such case a cash refund may be made upon return of the wine, provided that consent of the board is first had and obtained.

(3) Wine different from that ordered which has been delivered in error to a retail licensee may be returned to a wine distributor and either replaced with that wine which was ordered or a cash refund may be made upon the approval of the board first being obtained: Provided, That the error in delivery shall be discovered and corrected within eight days of the date the delivery was made.

(4) A distributor may return salable wine to a Washington winery provided the winery reimburses the distributor for the cost of the wine plus the wine tax which was paid by the distributor. The winery will then put any wine returned from a distributor into their tax paid area at the winery.

WAC 314-24-220 Licensing and operation of bonded wine warehouses. (1) There shall be a license for bonded wine warehouses pursuant to RCW 66.24.185, and this type of license shall be known as a bonded wine warehouse licensee. Applications for a bonded wine warehouse license shall be on forms prescribed by the board and shall be accompanied by such information as the board may request including, but not limited to, a written description of the proposed method of shipping, receiving, inventory control, and security.

(2) The bonded wine warehouse shall be physically separated from any other use in such manner as prescribed by the board, and as a condition of license approval, the applicant must furnish the board appropriate documentation indicating the location of the bonded wine warehouse is properly zoned for the intended use. Wine not under federal excise tax bond shall be identified as federally tax-paid and physically separated on the premises to the extent required under the license holder's federal basic permit.

(3) A bonded wine warehouse may provide storage for a domestic winery and for a United States winery outside the state of Washington holding a Washington certificate of approval. The wine may or may not be under federal bond, and the Washington wine tax provided in RCW 66.24.210 shall not be due until the wine is removed from bond and shipped to a licensed Washington wine distributor or, pursuant to RCW 66.12.020, to the liquor control board who will be responsible to pay the tax based on their purchases.

(4) Every bonded wine warehouse licensee shall have on file and available for inspection records of all wine transactions, including receipts and shipments of wine and the total inventory on hand at the bonded warehouse.

(5) Removals of wine from a bonded wine warehouse may be made only for shipment (a) to a licensed independent Washington wine distributor; (b) to another licensed bonded wine warehouse; (c) to the liquor control board; (d) out of state; (e) for return to the producing winery; or (f) to a producing domestic winery licensee. For purposes of this section, "producing domestic winery licensee" means the licensed Washington winery that produced the wine and its licensed agents. For purposes of this section, a "licensed agent" shall be an accredited representative, licensed pursuant to chapter 314-44 WAC, of only one producing domestic winery at the time of removal by such agent. A producing domestic winery licensee may take possession of wine from a bonded wine warehouse, after accepting an order therefor, and deliver the wine to a purchasing retail or special occasion licensee only by transporting the wine directly from the bonded wine warehouse to the licensed premises of the purchasing retail or special occasion licensee; provided, however, that in no event may a producing domestic winery licensee remove, in the aggregate, during any one calendar year, more than two thousand cases of wine for delivery directly to retail and special occasion licensees. Producing domestic winery licensees shall maintain records of removals and deliveries of wine from bonded wine warehouses and shall file with the liquor control board annually reports of the quantity of wine removed and delivered directly to retail and special occasion licensees. Invoicing shall be by the titleholder. The titleholder shall report shipments to, and returns from the bonded wine warehouse and sales to Washington wine distributors, and/or the liquor control board on the twentieth day of the month following the month of shipment and/or sale on forms furnished by, or acceptable to, the board.

(6) At no time shall title to wine stored at the bonded wine warehouse pass to the operator of the bonded wine warehouse.

(7) "Storage of bottled wine only" as used in RCW 66.24.185(1) shall mean the storage of wine packaged for sale at retail (i.e., other than in bulk form).

(8) As a condition precedent to license issuance, a bonded wine warehouse licensee shall guarantee payment to the state of any and all taxes under RCW 66.24.210 in the event the winery or other entity storing wine in the bonded wine warehouse fails to immediately pay such tax when due. Such guarantee shall be in the form of the bond referred to in subsection (9) of this section.

(9) As required by RCW 66.24.185(5) every holder of a bonded wine warehouse license must, at all times when said license is in force, have in effect and on file with the board a bond executed by a surety authorized to do business in the state of Washington, in a form approved by the board and in the amount of five thousand dollars.

WAC 314-24-230 Wine shipper's license. There shall be a license, designated as a wine shipper's license, to authorize the licensee to ship up to two cases of wine of its own manufacture annually to any resident of the state of Washington who is over the age of twenty-one years without payment of Washington's state liquor taxes and markup.

(1) Wine received as authorized by this rule shall be free of markup and state taxes as otherwise required by RCW 66.12.120 if the state from which the wine is received allows its residents to receive wine from the state of Washington without imposition of state tax, markup, or charges.

(2) All holders of a winery certificate of approval designated as an out-of-state winery license as authorized by RCW 66.24.206 and WAC 314-22-010, shall be deemed to hold wine shipper's license privileges without further application, provided, the holder meets all legal requirements for private wine shipments.

(3) A wine manufacturer located outside the state of Washington which is licensed by its resident state to manufacture wine therein may apply for a wine shipper's license from the board, if the manufacturer's resident state allows Washington wineries licensed under RCW 66.24.170 an equal reciprocal shipping privilege.

WAC 314-24-240 Conditions on delivery. (1) No person who receives wine pursuant to this rule shall resell any of the wine received.

(2) The licensee may not advertise or solicit consumers within the state of Washington to engage in reciprocal wine shipments.

(3) It is the responsibility of the licensee to contract only with private carriers who employ delivery agents that will (a) verify the age of the receiver of the wine upon delivery and (b) verify that the receiver of the wine does not appear intoxicated at the time of delivery.

(4) The licensee will report to the board, on or before the thirtieth day of January of each year all such shipments into Washington when a class W8 license has been in effect for all or any portion of the preceding year. All such reports will be on forms prescribed by the board.

(5) The board may suspend or revoke any wine shipper's W8 license if the licensee fails to comply with all requirements of Title 66 RCW and WAC 314-24 or any rules of the board.

WAC 314-24-250 Labeling requirements for private wine shippers. (1) All holders of a private wine shipper's license shall label all wine cases or outside shipping packages with the following language: **"Alcoholic beverage.** Do not deliver to anyone under 21 years old or who is visibly intoxicated. If reasonable doubt of age exists, verify age and **record** driver's license number or other photo ID."

(2) The language required in section (1) must be clearly visible and readable at the time of delivery.



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BRIEF INTRODUCTION

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